

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 17, 2017

TO: Honorable Angie Chen Button, Chair, House Committee on Economic & Small Business Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1304 by Longoria (Relating to the classification of workers for purposes of the Texas Unemployment Compensation Act; providing a penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB 1304, As Introduced: an impact of \$0 through the biennium ending August 31, 2019.

It is estimated there would be a positive impact of \$9,225,300 through the biennium ending August 31, 2019 to General Revenue - Dedicated Unemployment Compensation Special Administration Account 165.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from Unempl Comp Sp Adm Acct 165
2018	\$4,612,650
2019	\$4,612,650
2020	\$4,612,650
2021	\$4,612,650
2022	\$4,612,650

Fiscal Analysis

The bill would amend the Labor Code relating to the classification of workers for purposes of the Texas Unemployment Compensation Act; providing a penalty. The bill would allow the Texas Workforce Commission (TWC) to assess a penalty on an employer who fails to properly classify an employee in an amount not to exceed \$200 for each misclassified employee. The penalties are to be credited to the General Revenue-Dedicated (GR-D) Unemployment Compensation Special Administration Account 165 and used only to pay costs related to identifying, investigating, and preventing worker misclassification. The bill would take effect September 1, 2017.

Methodology

Based on information provided by TWC, this analysis assumes any administrative costs associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would create a penalty for misclassified employees deposited into the GR-D Special Administration Account 165. The agency assumes it would assess a penalty of \$100 for each initial misclassification violation and \$200 for each subsequent misclassification violation. Based on identified misclassified workers in 2016, the agency anticipates 65,895 initial violations and 13,179 subsequent violations.

TWC anticipates that approximately half of all assessed penalties will not be collected due to employer appeals, uncollectable penalties, or partial or non-payment. As a result, the estimated total penalty revenue is adjusted by 50 percent based on the agency's current collection rate. The total adjusted penalty revenue for initial and subsequent violations is \$4,612,650 each fiscal year.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 320 Texas Workforce Commission

LBB Staff: UP, CL, EH, CP